

**Before the
FEDERAL COMMUNICATION COMMISSION
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)	
)	
Implementation of the)	
Cable Television Consumer)	MM Docket No. 92-260
Protection and Competition)	
Act of 1992)	
)	
Cable Home Wiring)	

REPLY COMMENTS OF GTE

GTE Service Corporation ("GTE"), on behalf of its domestic telephone operating companies and GTE Laboratories Incorporated, offers its reply to comments responding to the Commission's Notice of Proposed Rule Making ("NPRM") in the above referenced proceeding, FCC 92-500, released November 6, 1992. The NPRM seeks comment on the implementation of Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992, P.L. No. 102-385, 102 Stat. 1460 (1992) ("Cable Act of 1992").

Congress has given the Commission a clear mandate in the Cable Act of 1992 to facilitate competition between cable operators and multichannel video programming distributors. The "Statement of Policy" section declares, "It is the policy of Congress in this Act to: (1) promote the availability to the public of a diversity of views and information through cable television and other video distribution media; and (2) rely on the marketplace, to the maximum extent feasible, to achieve that availability."¹ GTE urges the Commission to develop rules on cable home wiring that support this mandate by fostering competition

¹ H.R. Rep. No. 102-628, 102d Cong., 2d Sess., at 103 (September 14, 1992).

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and allowing consumers to have alternatives for service provision that are flexible, easily understood, and readily exercised. GTE supports multiple parties who filed comments expressing a similar desire.²

The Commission has the opportunity and authority to use this proceeding to formulate rules that: (1) grant consumers the right to control all existing and future installations of cable home wiring, (2) facilitate consumer competitive access and interconnection capabilities, (3) find termination of service is not a necessary prerequisite for consumers to be afforded competitive service options, (4) apply to consumers in single-family homes, multiple-unit dwellings, and multiple-building environments, and (5) address cable operator property rights and cost recovery concerns.

Cable Home Wiring and Telephone Inside
Wiring Should Be Subject to Similar Rules.

BellSouth (at p. 1) recognizes cable television and telecommunications markets continue to converge and uniformity in regulation of home wiring will serve the public interest. Building Industry Consulting Service International (“BICSI”) (at p. 3) urges the Commission to establish a uniform policy for all telecommunications wiring on customer’s premises, including both telephone and video delivery wiring. Pacific Bell and Nevada Bell (“Pacific Companies”) (at p. 1) assert the distinction between telephone and cable inside wiring is becoming blurred and similar rules that are in effect for telephone inside wiring should be imposed for coaxial cable. GTE concurs with these comments.

From a consumer perspective, there is little or no difference between telephone inside wiring and cable home wiring. Consumers have experienced

² United States Telephone Association (“USTA”) at p. 2, NYNEX Telephone Companies (“NYNEX”) at p. 2, Utilities Telecommunications Council (“UTC”) at p. 2, American Public Power Association (“APPA”) at p. 1, Media Access Project (“MAP”) at p. 1.

and accepted the deregulation of telephone inside wiring. They are familiar with existing rules and have developed a strong conceptual framework for the flexibility and control available to them for alternative service provision. GTE concludes a similar regulatory framework for cable home wiring will allow the Commission to realize its desired procompetitive goals in an inside wire policy that will be easily understood, assimilated, and utilized by consumers.

Consumers Should Control Premise Wiring.

Multiple parties insist consumer control of cable home wiring will enhance competition and allow the consumer true choice of service provision. NYNEX (at p. 2) asserts permitting consumers to own or control cable home wiring will help ensure consumers can exercise free choice regarding the provision of cable and video services. The Pacific Companies (at p. 4) declare consumer control of cable wiring will spur competition, not only with respect to cable wiring services, but also to cable operations in general. Liberty Cable Company (at p. 4) avows head to head competition between cable operators and alternative technologies can only become reality if the consumer controls the use and disposition of cable home wiring.

GTE supports these comments, believing consumers will not realize all the benefits of a competitive market without control of their cable home wiring. Consumers must be able to exercise their right to choose among alternative provisioning options to realize true current and future service competition.

Control, however, does not necessitate consumer ownership. The encouragement given to customer acquisition in both the House and Senate reports is language of permission, not obligation. GTE concurs with APPA comments (at pp. 1-2) that a rule similar to that adopted by the Commission

regarding telephone inside wiring would encourage competition while avoiding many of the complexities of consumer ownership. Consumer ownership of telephone inside wiring has not been necessary to facilitate competition; consumer control has.

Access and Interconnection
Will Facilitate Competition.

Several parties acknowledge the Commission can foster competition by granting competitive access and interconnection to cable home wiring. Bell Atlantic (at p. 1) declares cable company policies of denying competitive access to cable home wiring are a significant impediment to competition. Media Access Project (at p. 1) believes Commission rules can promote competition of non-over-the-air services if, at a minimum, they insure cable home wiring is made readily available for subsequent access to multichannel video services other than cable.

USTA (at p. 4) maintains consumers, who might be able to benefit from a competing video service, can be disadvantaged if they are served by a cable operator that refuses to open to competing services any in-place home cable wiring it claims as its own. USTA also concludes, from the standpoint of local telephone companies, such action will unnecessarily increase the cost of video dial tone and related competing services, delaying their availability. APPA (at p. 10) contends, if Congress' policy of encouraging competition in the cable industry is to be realized, it is essential that barriers to competition, such as the ability of cable operators to deny their competitors access to cable home wiring, be eliminated.

The Pacific Companies correctly conclude (at pp. 3-4) that no efficiency in the market will be gained from requiring each cable operator to install, then

remove, wiring inside a house each time a subscriber changes service or moves. They also maintain advantage should be taken of existing wiring within homes, which should lower barriers to entry and allow more vigorous competition in the form of lower prices.

GTE supports these comments and believes consumer access should encompass, at a minimum, the ability to remove, replace, rearrange or maintain cable home wiring.

To Maximize Consumer Benefit, the FCC Should
Supplement the 1992 Act Through Its Prior Authority.

Some have read the 1992 Cable Act's language on cable home wiring to apply only after a subscriber terminates service. Yet this limitation, if intended, need not preclude the Commission from adopting, on its independent authority, rules covering cable wire from the time of installation. In requiring that the agency regulate disposition of residence or office cable after termination, the legislation does not constrain pre-termination regulation except in one respect.

Consistent with Section 621(c) of the 1984 Communications Policy Act of 1984, 47 U.S.C. §541(c), the House Report (note 1, *supra*) at 118-119 states "the Committee does not intend that cable operators be treated as common carriers with respect to the internal cabling installed in subscribers' homes." In context, the Report makes clear the cable operator's continuing need and duty, while a service provider, to control theft of service, harmful signal leakage, etc. So long as customer pre-termination rights regarding cable home wiring do not impose common carrier obligations on the cable operator or hamper his control of the named harms, they would be lawful.

Thus, without extensive modification the telephone inside wire model can be used to create cable home wiring regulations that will encompass existing

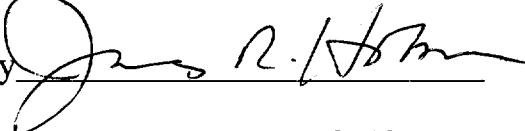
and future installations; will not require consumer termination to become effective; will cover single-family, multi-unit and multi-building environments; and will contain cost recovery mechanisms that address cable operator property rights.³

CONCLUSION

For the reasons discussed above, GTE urges the Commission to combine the authority granted by the 1992 Cable Act with its own powers under the pre-existing Communications Act, if and as needed, to create cable home wiring regulations modeled closely on the telephone inside wire rules that have proven their efficacy in enhancing competition and empowering consumers.

Respectfully submitted,

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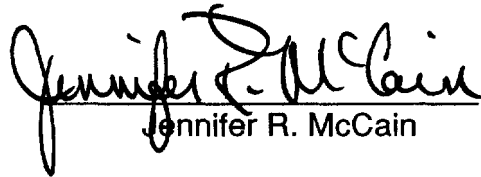
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ITS ATTORNEYS

³ Accord: USTA at p.6, BellSouth at pp.i-ii, UTC at p.4, Multiplex Technology at p.2, APPA at p.14, Consumer Electronics Group at p.6.

Certificate of Service

I, Jennifer R. McCain, hereby certify that copies of the foregoing "Reply Comments of GTE's" have been mailed by first class United States mail, postage prepaid, on the 15th day of December, 1992 to the parties on the attached list:


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